

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000-14th STREET, N.W., SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF)	DATE: October 24, 2003
)	
Diane E. Branch)	DOCKET NO.: 03F-118
TIF Project Manager (Former))	
Office of the Chief Financial Officer)	
2399 Bellaire Street)	
Wantagh, New York 11793)	

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of General Counsel following a determination by its Public Information Records Management Division, that pursuant to the D.C. Code §1-1106.02 (2001 Edition), Diane E. Branch, TIF Project Manager, Office of the Chief Financial Officer, failed to timely file, a Financial Disclosure Statement for calendar year 2002, on or before May 15, 2003 as required by D.C. Official Code §1-1106.02 and also failed to file on or before the OCF sanctioned extended filing deadline of June 19, 2003.

By Notices of Hearing, Statements of Violations and Orders of Appearance dated August 8, 2003 and September 3, 2003, OCF ordered Diane E. Branch (hereinafter respondent), to appear at scheduled hearings on August 20, 2003 and September 15, 2003 and show cause why she should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

Summary of Evidence

OCF alleges that the respondent failed to timely file the statutorily required Financial Disclosure Statement for calendar year 2002, on or before June 19, 2003.

On September 23, 2003, respondent contacted OCF by telephone to advise that she no longer works for the District Government, and that she currently resides in New York. OCF advised respondent to file an affidavit and a Financial Disclosure Statement (FDS) as soon as possible. On September 29, 2003, OCF received an affidavit from respondent, via facsimile, stating that she resigned from the District Government on or around August 2002. Respondent stated that at the time of her resignation, she was not

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informed of the requirement to file a final FDS with OCF. Respondent further asserted that she has filed timely in the past. Respondent filed a fully executed FDS with OCF on September 29, 2003.

Findings of Fact

Having reviewed the allegations and the record herein, I find:

1. Respondent timely filed Financial Disclosure Statements in 2002 and 2001.
2. Respondent resigned her position with the District Government in August 2002, and relocated to New York.
3. Respondent was required to file a Financial Disclosure Statement with OCF for calendar year 2002, on or before June 19, 2003.
4. Respondent filed the required Financial Disclosure Statement on September 29, 2003.
5. Respondent has no history of prior filing delinquencies.
6. Respondent's address of record was provided to OCF by respondent's agency, which failed to notify OCF of her separation from government service and change of address.
7. Respondent's explanation for the filing delinquency is credible in that she had no knowledge of the requirement to file a final FDS with OCF upon leaving government service.
8. Respondent is currently in compliance with the statute.

Conclusions of Law

Based upon the record provided by OCF, I therefore conclude:

1. Respondent violated D.C. Official Code §1-1106.02.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3DCMR §§3711.2(aa), 3711.2 and 3711.4 for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02 is a fine of \$50.00 per day for each business day subsequent to the due date.

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3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent may be fined a maximum of \$2,000.00 for failing to timely file a Financial Disclosure Statement.
4. For good cause shown pursuant to 3DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. Respondent's explanation for failing to timely file constitutes good cause for suspension of the fine.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of the fine in this matter.

Date

Jean Scott Diggs
Hearing Officer

Concurrence

In view of the foregoing, I hereby concur with the Recommendation.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the fine be hereby suspended this matter.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order.

Rose Rice
Legal Assistant

NOTICE

Pursuant to 3DCMR §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000-14th Street, N.W., Washington, D.C. 20009.